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Conference Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 324

SENATE BILL 1426

AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES; RELATING TO THE
CORRECTIONS OFFICER RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, is amended to
3 read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition that
7 the local board finds totally and permanently prevents an employee from
8 performing a reasonable range of duties within the employee's department, was
9 incurred in the performance of the employee's duties and was the result of
10 any of the following:

11 (a) Physical contact with inmates, prisoners, parolees or persons on
12 probation.

13 (b) Responding to a confrontational situation with inmates, prisoners,
14 parolees or persons on probation.

15 (c) A job related motor vehicle accident while on official business for
16 the employee's employer. A job related motor vehicle accident does not
17 include an accident that occurs on the way to or from work. Persons found
18 guilty of violating a personnel rule, a rule established by the employee's
19 employer or a state or federal law in connection with a job related motor
20 vehicle accident do not meet the conditions for accidental disability.

21 2. "Accumulated member contributions" means the sum of all member
22 contributions deducted from a member's salary and paid to the fund, plus
23 member contributions transferred to the fund by another retirement plan
24 covering public employees of this state, plus previously withdrawn
25 accumulated member contributions which are repaid to the fund in accordance
26 with this article, minus any benefits paid to or on behalf of a member.

27 3. "Average monthly salary" means one-thirty-sixth of the aggregate
28 amount of salary paid a member by a participating employer during a period of
29 thirty-six consecutive months of service in which the member received the
30 highest salary within the last one hundred twenty months of service. Average
31 monthly salary means the aggregate amount of compensation paid a member
32 divided by the member's months of service if the member has less than
33 thirty-six months of service. In the computation under this paragraph, a
34 period of nonpaid or partially paid industrial leave shall be considered
35 based on the salary the employee would have received in the employee's job
36 classification if the employee was not on industrial leave.

37 4. "Beneficiary" means an individual who is being paid or who has
38 entitlement to the future payment of a pension on account of a reason other
39 than the individual's membership in the retirement plan.

40 5. "Claimant" means a member, beneficiary or estate that files an
41 application for benefits with the retirement plan.

42 6. "Credited service" means credited service transferred to the
43 retirement plan from another retirement system or plan for public employees
44 of this state, plus those compensated periods of service as a member of the
45 retirement plan for which member contributions are on deposit in the fund.

- 1 7. "Designated position" means:
- 2 (a) For a county:
- 3 (i) A county detention officer.
- 4 (ii) A nonuniformed employee of a sheriff's department whose primary
- 5 duties require direct contact with inmates.
- 6 (b) For the state department of corrections and the department of
- 7 juvenile corrections, only the following specifically designated positions:
- 8 (i) Food service.
- 9 (ii) Nursing personnel.
- 10 (iii) Corrections physician assistant.
- 11 (iv) Therapist.
- 12 (v) Corrections dental assistant.
- 13 (vi) Hygienist.
- 14 (vii) Corrections medical assistant.
- 15 (viii) Correctional service officer, including assistant deputy warden,
- 16 deputy warden, warden and superintendent.
- 17 (ix) State correctional program officer.
- 18 (x) Parole or community supervision officers.
- 19 (xi) Investigators.
- 20 (xii) Teachers.
- 21 (xiii) Institutional maintenance workers.
- 22 (xiv) Youth corrections officer.
- 23 (xv) Youth program officer.
- 24 (xvi) Behavioral health treatment unit managers.
- 25 (xvii) The director and assistant directors of the department of juvenile
- 26 corrections and the superintendent of the state educational system for
- 27 committed youth.
- 28 (xviii) The director, deputy directors and assistant directors of the
- 29 state department of corrections.
- 30 (xix) Other positions designated by the local board of the state
- 31 department of corrections or the local board of the department of juvenile
- 32 corrections pursuant to section 38-891, subsection E.
- 33 (c) For a city or town, a city or town detention officer.
- 34 (d) For an employer of an eligible group as defined in section 38-842,
- 35 full-time dispatchers.
- 36 8. "Employee" means a person determined by the local board to be
- 37 employed by a participating employer in a designated position.
- 38 9. "Employer" means an agency or department of this state or a
- 39 political subdivision of this state which has one or more employees in a
- 40 designated position.
- 41 10. "Fund" means the corrections officer retirement plan fund.
- 42 11. "Fund manager" means the fund manager of the public safety
- 43 personnel retirement system.

1 12. "Local board" means the retirement board of the employer that
2 consists of persons appointed or elected to administer the plan as it applies
3 to the employer's members in the plan.

4 13. "Member" means any employee who meets all of the following
5 qualifications:

6 (a) Who is a full-time paid person employed by a participating employer
7 in a designated position.

8 (b) Who is receiving salary for personal services rendered to a
9 participating employer or would be receiving salary except for an authorized
10 leave of absence.

11 (c) Whose customary employment is at least forty hours each week and
12 for more than six months in a calendar year.

13 14. "Normal retirement date" means the first day of the calendar month
14 immediately following an employee's completion of twenty years of service or,
15 in the case of a dispatcher, twenty-five years of service, the employee's
16 sixty-second birthday and completion of ten years of service or the month in
17 which the sum of the employee's age and years of credited service equals
18 eighty.

19 15. "Participating employer" means an employer which the fund manager
20 has determined to have one or more employees in a designated position or a
21 county, city or town which has entered into a joinder agreement pursuant to
22 section 38-902.

23 16. "Pension" means a series of monthly payments by the retirement
24 plan.

25 17. "Retired member" means an individual who is being paid a pension on
26 account of the individual's membership in the retirement plan.

27 18. "Retirement" means termination of employment after a member has
28 fulfilled all requirements for a pension.

29 19. "Retirement plan" or "plan" means the corrections officer
30 retirement plan established by this article.

31 20. "Salary" means the base salary or base wages, OVERTIME PAY, shift
32 differential pay and holiday pay paid a member in a designated position for
33 personal services rendered to a participating employer on a regular monthly,
34 semimonthly or biweekly payroll basis, EXCEPT THAT FOR THE PURPOSES OF THIS
35 PARAGRAPH THE AMOUNT OF OVERTIME INCLUDED SHALL NOT INCLUDE PAYMENTS TO THE
36 MEMBER FOR THE SALE OF COMPENSATORY TIME. Salary includes amounts that are
37 subject to deferred compensation or tax shelter agreements. Salary does not
38 include any remuneration or reimbursement other than as prescribed by this
39 paragraph.

40 21. "Service" means employment rendered to a participating employer as
41 an employee in a designated position. Any absence that is authorized by an
42 employer, including any periods during which the employee is on an employer
43 sponsored long-term disability program, is considered as service if the
44 employee returns or is deemed by the employer to have returned to a
45 designated position within the period of the authorized absence.

1 22. "Total and permanent disability" means a physical or mental
2 condition that is not an accidental disability, that the local board finds
3 totally and permanently prevents a member from engaging in any gainful
4 employment and that is the direct and proximate result of the member's
5 performance of the member's duty as an employee of a participating employer.

6 Sec. 2. Effective date; conditional enactment

7 Section 38-881, Arizona Revised Statutes, as amended by this act, is
8 effective from and after June 30 of the year that follows the June 30
9 actuarial valuation of the corrections officer retirement plan that
10 determines that the ratio of the funding value of accrued assets to accrued
11 liabilities of the fund is at least one hundred per cent. Notwithstanding
12 this section, the earliest effective date of section 38-881, Arizona Revised
13 Statutes, as amended by this act, shall be from and after June 30, 2008, but
14 only if the June 30, 2007 actuarial valuation of the corrections officer
15 retirement plan determines that the ratio of the funding value of accrued
16 assets to accrued liabilities of the fund is at least one hundred per cent.
17 The administrator of the corrections officer retirement plan shall notify in
18 writing the director of the Arizona legislative council of the date on which
19 the condition is met.

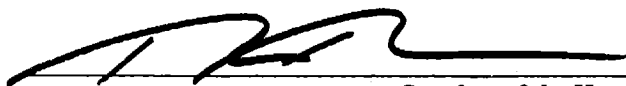
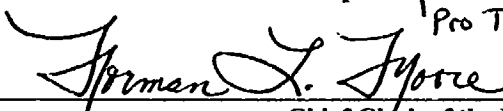
APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.

Passed the House April 28, 2005,

by the following vote: 40 Ayes,


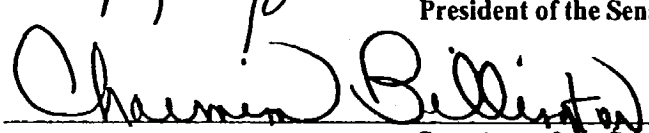
16 Nays, 4 Not Voting


Speaker of the House
Pro Tempore

Chief Clerk of the House

Passed the Senate March 10, 2005,

by the following vote: 16 Ayes,

12 Nays, 2 Not Voting


President of the Senate

Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1426

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20____,~~

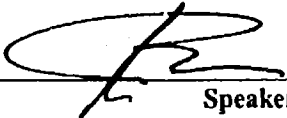
~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 13, 2005,
by the following vote: 36 Ayes,

17 Nays, 7 Not Voting



Speaker of the House

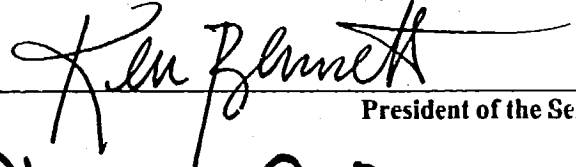


Chief Clerk of the House

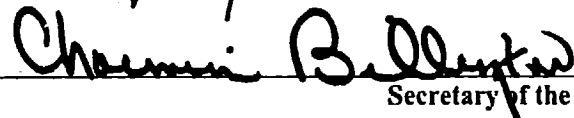
SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 12, 2005,
by the following vote: 24 Ayes,

0 Nays, 6 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 13th day of May, 2005

at 8:38 o'clock A. M.



Secretary to the Governor

Approved this 20 day of

May, 2005,

at 945 o'clock A. M.



Governor of Arizona

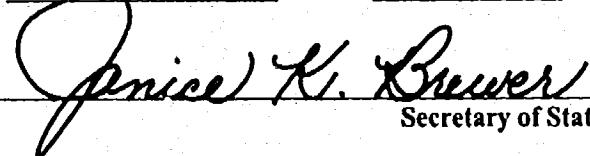
S.B. 1426

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2005

at 3:03 o'clock P. M.



Secretary of State